

STATUS OF CLAIMS

Claims 1-46 are pending.

Claims 1-44 stand withdrawn.

Claims 45-46 stand rejected.

Claims 45 and 46 have been amended without prejudice or disclaimer.

Claims 47-48 are new.

REMARKS

Claim Amendments

Claims 45 and 46 have been amended to replace "comprises the steps of" with "comprising."

Claim 45 has been amended to overcome the Section 112, second paragraph rejection, as discussed below.

Disclosure support for new claim 47 may be found, for example, in Paragraph [0043] of the specification.

Disclosure support for new claim 48 may be found, for example, in Paragraph [0100] of the specification.

Rejection of Claim 45 Under 35 U.S.C. 112, Second Paragraph

Claim 45 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Examiner states that the recitation: "and adding the time points accumulated pertaining to the presence of the individual at the physical commerce location and the credits awarded based on the connection

between the client and the network to a time points account associated with the individual" is indefinite. By the present amendment, the rejection has been overcome.

Rejection of Claim 46 Under 35 U.S.C. 102(e) As Being Anticipated By U.S. Patent Publication No. 2002/0049631 (Williams)

Claim 46 stands rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Publication No. 2002/0049631 (Williams). This rejection is respectfully traversed for at least the reason that the cited reference fails to teach each element of claim 46.

Claim 46 recites:

46. A method of providing a rewards program, comprising:

- enrolling an individual in a rewards program by obtaining the individual profile information and storing said information at a program administrator location maintained by a program administrator;

- requiring identification of the individual at a physical commerce location maintained by a program participant, the identification being based on said stored information;

- commencing a physical commerce location accumulation session following the identification of the individual;

- recording physical commerce location information, including at least the time of day, day of week and information pertaining to purchases made at the physical commerce location during the physical commerce location accumulation session;

- forwarding said recorded physical commerce location information to the program administrator;

- updating the stored individual profile information at the program administrator location;

- calculating number of time points accumulated as a result of the physical commerce location accumulation session based on the stored individual profile information and a formula selected by the program participant;

- requiring identification of the individual once a connection to a participant resource has been established, the identification being based on said stored information;

- commencing an on-line accumulation session following the identification of the individual;

recording on-line information, including at least the time of day, the day of the week and the duration of the on-line accumulation session, at a participant's location during the on-line accumulation session;

forwarding said on-line information to the program administrator;

updating the stored individual information at the program administrator location;

calculating the number of time points accumulated as a result of the on-line accumulation session based on the stored individual information and a formula selected by the participant; and

permitting redemption of the earned credits for items of value.

The method recited in claim 46 may be employed, by way of non-limiting example, to provide an incentive for an individual both to visit a physical commerce location, such as a store, and make purchases there, and to engage in an on-line session, such as at a selected website, with the recording of the duration of the on-line session permitting an award of time points based in part on the duration of the on-line session. By way of non-limiting example, a retailer may provide incentives for consumers who make purchases at the retailer's brick and mortar stores to visit an e-commerce website of the retailer, without making the award contingent on a purchase at the e-commerce website.

The method of Williams fails to disclose at least the recited step of:

"recording on-line information, including at least the time of day, the day of the week and *the duration of the on-line accumulation session*, at a participant's location during the on-line accumulation session" (emphasis added).

The duration of an on-line session does not enter into calculation of a reward points system in the invention of Williams. Williams explicitly defines a rewards point system to exclude anything other than purchases: "A purchaser reward points system is a promotional program whereby customers are given and accumulate points for making purchases and the accumulated points may be traded for value." (Paragraph [0044]).

Williams thus does not award points for anything other than purchases, and does not provide any suggestion for one of ordinary skill in the art to record any information other than purchase information.

For at least the foregoing reasons, the rejection of claim 46 should be withdrawn.

New Claims 47-48

New Claims 47-48 depend from claim 46.

New claim 47 recites a formula for awarding time points contingent on an interaction at a physical commerce location occurring at a particular time of day.

New claim 48 recites a formula for awarding time points based on duration of an accumulation session.

As discussed above, Williams teaches that a purchaser reward points program system gives points for making purchases. Claims 47 and 48 recite awards of points based on information other than purchases. For at least this reason, in addition to their dependence from allowable base claim 46, claims 47 and 48 are allowable.

Rejection of Claim 45 Under 35 U.S.C. 103 Over U.S. Patent Publication No. 2001/0034651 (Marks) In View of U.S. Patent Publication No. 2001/0037232 (Miller)

Claim 45 stands rejected under 35 U.S.C. 103 over U.S. Patent Publication No. 2001/0034651 (Marks) in view of U.S. Patent Publication No. 2001/0037232 (Miller).

It is noted that the rejection refers to the secondary reference (Miller) as U.S. Patent Publication No. 2002/0037232. Applicant understands that this is a typographical error, and has addressed the rejection as if the secondary reference were U.S. Patent Publication No. 2001/0037232. If the Examiner intended to refer to another

reference, then issuance of a corrective non-final action, identifying the secondary reference, is respectfully requested.

The rejection is respectfully traversed, at least on the grounds that the references, even when combined as proposed by the Examiner, fail to disclose each and every limitation of claim 45.

Claim 45 relates to a rewards program. The recited method may be applicable, by way of non-limiting example, in a rewards program that both encourages a known individual to provide identification at a retailer's physical commerce location at a particular time of day, and encourages the same individual to view the retailer's website by rewarding longer time spent at the website with more points.

Claim 45, as amended, recites:

45. A method for providing a rewards program, comprising:

receiving identification information relating to an individual at a physical commerce location provided by an individual who is present at the physical commerce location;

correlating received identification information with stored identification information;

recording the time of receipt of identification information;

calculating an award of credits based at least in part on a correlation between the time of receipt of identification information and predetermined time criteria relating to the award of credits;

receiving identification information relating to the individual from a client upon the establishment of a connection between the client and a network resource;

correlating received identification information with stored identification information;

commencing an accumulation session;

monitoring the time of the accumulation session;

calculating time points accumulated in the accumulation session, based at least in part on increasing amount of credits based upon increasing the duration of the accumulation session;

and adding the credits awarded pertaining to the presence of the individual at the physical commerce location and the credits awarded based on the connection between the client and the network to a time points account associated with the individual.

Contrary to page 4 of the Office Action, Marks fails to disclose at least the limitation:

“calculating an award of credits based at least in part on a correlation between the time of receipt of identification information and predetermined time criteria relating to the award of credits.”

Marks fails to disclose any connection between a time of receipt of identification information and calculation of an award of credits. While Marks discloses, in Paragraph [0049], storing a customer's account or storing data in a cookie, there is no relation between time of receipt of identification information and an award.

The Examiner points to Paragraphs [0039] to [0043] as disclosing “calculating an award of credits based at least in part on a correlation between the time of receipt of identification information and predetermined time criteria relating to the award of credits.” Paragraph [0039] merely states that if the purchase activity requires enough time to enable ad viewing and responses, a terminal at the specific location may deliver the benefit in the form of credits. This has nothing to do with a time of receipt of identification information.

Paragraph [0040] provides greater detail regarding a gas station having a terminal for displaying and viewing ads. There is no discussion as to a correlation between time of receipt of identification information and predetermined time criteria relating to the award of credits.

Paragraph [0041] provides an example of a restaurant having Internet ads displayed at a terminal at each table. Marks states that the benefit provided by the given ad or multiple ad may be a discount on the check amount or a free menu item. Thus, the benefit relates to the ad, not to time. Again, there is no discussion as to a correlation between time of receipt of identification information and predetermined time criteria relating to the award of credits.

Paragraph [0042] provides an example of an airliner on which a passenger's personal video screen acts as a customer terminal to show ad banners. When a passenger responds to a participating ad a host computer on the airliner registers the response and signals that a benefit is due to be delivered to the passenger sitting in the seat correlated to the terminal on which the ad response was given. There is no discussion as to a correlation between time of receipt of identification information and predetermined time criteria relating to the award of credits.

Paragraph [0043] provides that a user not precisely locatable on a merchant's premises may still receive a discount for viewing ads at the merchant's facility. There is no disclosure as to a correlation between time of receipt of identification information and predetermined time criteria relating to the award of credits.

The foregoing reasons constitute sufficient grounds for withdrawal of the present rejection of claim 45 under Section 103. However, as independently sufficient grounds for withdrawal of the rejection of claim 45, Miller fails to teach the step of "calculating time points accumulated in the accumulation session, based at least in part on increasing amount of credits based upon increasing the duration of the accumulation session." Rather, Miller teaches providing incentive rewards to audience members who report which advertisements they see (Abstract). The amount of credits for a response

may depend on the correctness of the response (Paragraph [0018]). However, the duration of the session is not a factor in the calculation. For at least this additional reason, the proposed combination of Marks and Miller fails to disclose each and every limitation of claim 45.

Furthermore, as still further independent grounds for withdrawal of the rejection of claim 45 under Section 103, the Examiner has provided neither a teaching, suggestion or motivation, nor a convincing line of reasoning, as to why one of ordinary skill in the art would find it obvious to combine the references as proposed. Marks presents an incentive benefit program that compensates customers for viewing advertising and other activities while conducting business at a host merchant (Abstract). In one embodiment, the host may accumulate, store and control the benefits (Paragraph [0018]). The discount may be a reduction in the customer's bill, or additional product from the merchant. Miller, by contrast, does not relate to providing advertising and compensation for advertising while conducting business at a host merchant at all, but to giving incentive rewards to audience members who report which advertisements they see. Thus, Marks provides for rewarding the viewer of advertising in a particular environment, that of a host merchant, while Miller teaches verification of viewing advertising before providing incentives. One of ordinary skill would not have an incentive to combine the respective disclosures of Marks and Miller into a method including separate sessions at physical commerce locations and between a client and a network resource as recited in claim 45. Moreover, Marks provides a method in which the user remains anonymous to the benefit provider and others (Abstract). This benefit of Marks would clearly be lost if the individual must be tracked at both a physical commerce location and communication between a client and a network resource. Thus,

the proposed modification would reduce the utility of Marks; one of ordinary skill in the art would not find it obvious to make such a modification to Marks.

For at least the foregoing reasons, the rejection of claim 45 under Section 103 is respectfully traversed.

CONCLUSION

Applicant believes he has addressed all outstanding grounds raised by the Examiner and respectfully requests claims 45-48 be allowed.

Should there be any questions or outstanding matters, the Examiner is cordially invited and requested to contact Applicant's undersigned attorney at his number listed below.

Respectfully submitted,



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